IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.74 OF 2006

Shri Shrichand T. Bhatia & Ors. ..Applicants.

V/s.

Shri Ramkishin T. Bhatia & Anr. ..Respondents.

Mr.J.M.Puranik for applicants.

Mr.C.P.Deogirikar for respondent Nos. 1 and 2.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 31, 2006.

P.C. :

1. Heard counsel for the parties.

2. I find no infirmity in the approach adopted by the Court below in rejecting the subject application Exh.84 filed by the applicants, essentially for the reason that similar plea was taken by the applicants in the past in the earlier application filed before the trial court which has been answered against the applicants. The orders on the previous application dated 14th June, 2002 and 20th August, 2002 have not been challenged by the applicants. In that sense it was not open to the trial Court to permit the applicants to reagitate the same issue before it. Thus understood, there is no

infirmity in the view taken by the Court below in rejecting the subject application.

3. Indeed, the counsel for the respondent pressed into service decision of the Supreme Court in the case of **S.Rm.Ar.S.Sp. Sathappa Chettiar V/s. Rm.Ar. Rm.Ramanathan Chettiar reported in AIR 1958 Supreme Court 245 and M/s.Commercial Aviation and Travel Company & Ors. V/s. Vimla Pannalal reported in (1988) 3 SCC 423** to support the conclusion reached by the Trial court. It is not necessary to examine the contention on merits. Suffice it to observe that the trial Court was right in rejecting the subject application as the applicants could not be permitted to reagitate the same contention again and again before that Court. Accordingly, this revision application should fail. The same is dismissed.

4. However, it is observed that it will be open to the applicants to take all available grounds, which have been rejected by the trial Court while disposing of the applications under exh.39, 43, 53 as well as 84 in the appeal to be filed by the applicants against any adverse decree to be passed by the Trial Court, if such occasion arises. All questions in that behalf are left open to be decided

by the appellate court on its own merits in accordance with law.